Approved for Release: 2022/11/14 C00780391

Central Intelligence Agency

Washington, D.C. 20505

23 May 2002

(b)(6)

Mr. R. Thomas Holder

Reference: F-2002-00709

Dear Mr. Holder:

The office of the Information and Privacy Coordinator has just received your 10 October 2001 letter requesting records under the provisions of the Freedom of Information Act (FOIA). Specifically, your request is for records pertaining to **George J. Ornas, who was shot to death near Placitas, NM on 1 December 1970**. For identification purposes we have assigned your request the number referenced above. Please refer to this number in future correspondence.

As you may know, the discovery of anthrax in a letter mailed to the United States Senate on 15 October 2001 led to a series of escalating safety concerns about opening, handling, and even being in the proximity of mail, especially in government offices in Washington, D.C. These concerns, in turn, led to disruptions in, and then total curtailment of, mail delivery service, to include Freedom of Information Act-related correspondence, at many federal agencies, including the Central Intelligence Agency.

Under such extraordinary circumstances, the administration of the Freedom of Information Act has inevitably been delayed at all affected federal agencies. As a matter of both common sense and legal precedent, when mail delivery is delayed, so is the commencement of the process of FOIA administration, regardless of the time at which a FOIA request is placed into the mail by the requester or postmarked thereafter. Simply put, the FOIA process cannot begin until the personnel of an agency FOIA office are able to open any belatedly delivered item of mail.

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In an effort to assist you, we searched our electronic system of previously released records, but found none relating to George J. Ornas. We can, however, conduct searches in our other records systems if you insist, but it is only fair to apprise you of the very low probability of success before we start. The mission of the Central Intelligence Agency is primarily concerned with foreign intelligence – not domestic – matters. Section 103 (d)(1) of the National Security Act, as amended, specifically provides that "the Agency shall have no police, subpoena, law-enforcement powers, or internal security functions." Executive Order 12333, which regulates the conduct of intelligence activities in the United States and elsewhere, provides that the responsibility for domestic intelligence collection is generally within the province of the Federal Bureau of Investigation (FBI).

To conduct an effective search of our files for information on an individual, we need as much identifying information as possible. If you wish to pursue this, please provide us with the full name, date and place of birth, nationality, and citizenship status at the time of death. Without these we may be unable to distinguish between individuals with the same or similar names.

In cases such as yours, where the subject is deceased, we need some evidence of death, such as a death certificate, an obituary, or press statement, so that we can be sure there are no privacy considerations. We can search without this evidence, but if we should locate relevant records and did not have such evidence, we would have to withhold information that, if released, would be an unwarranted invasion of that person's privacy. Privacy rights are addressed in the Privacy Act (5 U.S.C. § 552a) and the FOIA 5 U.S.C. § 552(b)(6)].

As you are aware, the FOIA authorizes federal agencies to collect fees for records services. You will note on the enclosed fee schedule that we charge search fees, including computer time where indices are computerized, and copying costs for releasable documents. In accordance with Section (a) of the schedule, search fees are assessable even if no records are found or, if found, we determine that they are not releasable. This means you will be charged even if our search results are negative or if we determine that no information is releasable under the FOIA. The search fees for each item in a request are usually about $150.

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Based upon the information provided in your letter, we have determined that your request falls into the "all other" fee category, which means that you will be required to pay charges which recover the cost of searching for and reproducing responsive records (if any) beyond the first 100 pages of reproduction and the first two hours of search time, which will be furnished without charge. Copying costs will be assessed at the rate of ten cents per page.

Before we can begin processing your request, we must receive the information requested in paragraphs 5 and 6 above, and your commitment to pay all fees incurred under the conditions stated above. We will hold your request in abeyance for 45 days from the date of this letter pending your reply.

Sincerely,

Kathryn I. Dyer
Information and Privacy Coordinator

Enclosure

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